

May 11, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L00P0005**

SCHULTZ SUBDIVISION
Preliminary Plat Application

Location: Lying on the south side of South 280th Street (if extended),
approximately between 32nd Avenue South (if constructed) and 34th
Avenue South

Applicant: Cobblestone Development, *represented by*
Michael Davis
27013 Pacific Highway South, Suit 353
Des Moines, WA 98198
Telephone: (253) 859-3750

King County: Department of Development and Environmental Services,
Land Use Services Division, *represented by*
Lanny Heno
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7168
Facsimile: (206) 296-6613

SUMMARY OF DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application submitted:	February 18, 2000
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Complete application: March 17, 2000

EXAMINER PROCEEDINGS:

Hearing Opened: May 8, 2001
Hearing Closed: May 8, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Intersection safety
- Recreation tract requirements

SUMMARY:

The preliminary plat application is approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Cobblestone Development, Inc.
Attn: Michael Davis
27013 Pacific Highway South, Suite 353
Des Moines, WA 98198
Phone: (253) 859-3750

Engineer: AHBL, Inc.
2215 N. 30th St., Suite 300
Tacoma, WA 98403
Phone: (253) 383-2422

STR: NW ¼ of the SW ¼ of Sec. 34, Twp. 22, Range 4

Location: Lying on the south side of S. 280th St. (if extended), approximately between 32nd Ave. S. (if constructed) and 34th Ave. S.

Zoning:	R-4
Acreage:	3.23
Number of Lots:	19
Density:	5.88 dwelling units per acre
Lot Sizes:	Range from 4,417 to 7,281 square feet
Proposed Use:	Detached single-family residences
Sewage Disposal:	Lakehaven Utility District
Water Supply:	Highline Water District
Fire District:	No. 39
School District:	Federal Way School District No. 210

Complete Application (Vesting) Date: February 18, 2000

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the May 8, 2001 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Cobblestone Development Incorporated has filed a preliminary plat application to subdivide 3.23 acres into 19 lots for single family residential development. The property is located south of Star Lake and is the recipient property of additional density transferred under the provisions of KCC 21.A.55. The plat is subject to a SEPA condition requiring construction of a southbound left turn lane on Military Road at the South Star Lake Road intersection if such facility is not constructed by another development prior to final approval. Staff review of the application also resulted in a requirement for relocation of the proposed on-site recreational tract.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for the Schultz Plat, as revised and received on December 13, 2000, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the maximum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification (per KCC 21A.55.150M), and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. Also, changes to the plat design mandated by Condition 17A below are permitted.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards, established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer, to demonstrate compliance with the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. All applicable requirements in KCC 9.04 and the King County Surface Water Design Manual must be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

8. The following road improvements are required for this subdivision and shall be constructed consistent with the 1993 King County Road Standards (KCRS):
 - a. The internal road, 33rd Ave. S./S 281st Ct., shall be improved to the urban subaccess street standard.
 - b. S. 280th St. between 33rd Ave. S. (aka 32nd Pl. S.) and 34th Ave S. shall be improved, at a minimum, to the urban subcollector street standard on the south side, i.e., a 14-foot-wide driving lane and a curb and sidewalk. The north side shall be improved, at a minimum, with an 11-foot-wide driving lane with rural type shoulder and open-ditch, or as approved by DDES. (Note that modifications to the S. 280th St. right-of-way west 33rd Ave. S. will not be required to achieve sight distance.)
 - c. The tract proposed to serve Lots 13 – 16 shall be improved as a private access tract, consistent with KCRS Sec. 2.09. This tract shall be owned and privately maintained by the owners of Lots 13 – 16. An access easement for the benefit of King County shall be shown on the tract, to allow access to Tract A for the maintenance of stormwater facilities. Notes to this effect shall be shown on the final plat and engineering plans.
 - d. The intersection of the above-noted private access tract with 33rd Ave. S. shall be revised to comply with the angle of intersection and curb return requirements of the Road Standards.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to final plat recording.
10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 14009, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, 50% of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

12. A planter island, if proposed within the turnaround bulb for S. 281st Ct., shall be maintained by the abutting lot owners or the homeowners association. If the island is proposed, a note indicating who is responsible for maintenance of the island shall be stated on the face of the final plat.
13. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

14. The proposed subdivision shall comply with the sensitive areas requirements as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
15. Preliminary plat review has identified the following sensitive area issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the applicant.
 - a. A 50-foot-wide native growth buffer shall be provided from the Class 2 wetland located west of the site in the 32nd Ave. S. right-of-way and on Tax Lot 3322049146, to the extent this buffer falls within the subject property.

- b. The above-noted wetland buffer within the subject plat shall be placed in a sensitive area tract on the final plat and engineering plans.
 - c. A 15-foot-wide building setback from the sensitive area tract shall be shown on the final plat and engineering plans.
- 16. The applicant shall delineate all erosion hazard areas on the site on the final engineering plans. (Erosion hazard areas are defined in KCC 21A.06.415.) The delineation of such areas shall be approved by an LUSD senior geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing activities.
- 17. Suitable on-site recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. The plat design shall be revised in order to comply with KCC 21A.14.180B4 concerning street frontage. The recreation tract shall have frontage along a developed roadway, consistent with the provisions of KCC 21A.14.180B4. The revised plat design shall be reviewed and approved by LUSD.
 - b. An overall conceptual recreation space plan shall be submitted for review and approval by LUSD, with the submittal of the engineering plans. The conceptual recreation plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the conceptual plan.
 - c. A detailed recreation space plan (i.e., landscape specifications, equipment specifications, etc.) consistent with the overall conceptual plan noted in Item "b" above, shall be submitted for review and approval by LUSD and King County Parks, prior to or concurrently with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements to assure their installation, and the survival of required plantings for a three year period, shall be posted prior to recording of the plat.
- 18. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and open space areas
- 19. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage, except on the north side of S. 280th St. (where street trees are not required). Spacing may be modified to accommodate sight distance requirements for driveways and intersections.

- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation (KCDOT) determines that trees should not be located in the street right-of-way.
- c. If KCDOT determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners or the homeowners' association or other workable organization, unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

20. Documents shall be provided to demonstrate compliance with KCC 21A.55.150H, 21A.55.150I, 21A.55.150K, and 21A.55.170A2. Regarding KCC 21A.55.150H, a document shall be provided containing the necessary deed restrictions, which shall be recorded concurrently with the recording of the subject plat. Regarding KCC 21A.55.150I, a conservation easement shall be provided consistent with the provisions of this code section, which shall be recorded concurrently with the recording of the subject plat. Regarding KCC 21A.55.150K, documentation shall be provided indicating the King County Assessor's Office has been notified of the proposed development credit transfer, and the aforementioned deed restrictions and conservation easement. Regarding KCC 21A.55.170A2, the applicant shall submit the TDC certificate to LUSD prior to final plat approval.

The following condition has been established under SEPA authority to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with this condition prior to final approval:

21. To address the subject plat's adverse impacts at the intersection of Military Rd. S./S. Star Lake Rd., the applicant, either individually or in conjunction with other developers in the area, shall construct a southbound left turn lane on Military Road at S. Star Lake Rd. The channelization and illumination plans for this improvement shall be reviewed and approved by the Traffic Engineering Section, King County Department of Transportation, prior to engineering plan approval for the plat.

ORDERED this 11th day of May, 2001.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 11th day of May, 2001, to the parties and interested persons of record

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City of Kent Planning Department 220 4th Avenue South Kent WA 98032	King County Envir Health Division Eastgate Public Health Center 14350 SE Eastgate Way Bellevue WA 98007	King County Library System Administrative Office 960 Newport Way NW Issaquah WA 98027-2702
Russ Ladley Puyallup Tribe 6824 Pioneer Way East Puyallup WA 98371	Dennis and Linda Lea PO Box 8071 Federal Way WA 98003	Des Moines Library 21620 - 11th Avenue South Des Moines WA 98198
Camron and Patricia Lusby 3507 South 281st Street Auburn WA 98001	Clinton G. Marsh Kent School District #415 12033 SE 256th St., Building B Kent WA 98031-6643	Linda Matlock, WA State Dept Ecology WQSW Unit PO Box 47696 Olympia WA 98504-7696
Ronald and Esther McClung 3515 South 282nd Auburn WA 98001	Midway Sewer District PO Box 3487 Kent WA 98032-0209	Eleanor Moon K C Executive Horse Council 12230 NE 61st Kirkland WA 98033
Muckleshoot Indian Tribe Fisheries Dept/SEPA Review 39015 - 172nd Ave SE Auburn WA 98092-9763	Robert and Jean Mullen 28223 - 34th Avenue South Auburn WA 98001	Tricia Mullen 28217 - 34th Avenue South Auburn WA 98001
Eugene and Diane Munson Dept 3525 South 281st Auburn WA 98001	New Home Trends 18912 N Creek Parkway #211 Bothell WA 98011	Normandy Park Planning 801 SW 174th Street Normandy Park WA 98166
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Sea Tac WA 98188

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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before May 25, 2001***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before June 1, 2001***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Court-house, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MAY 8, 2001 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L00P0005 – SCHULTZ SUBDIVISION:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Lanny Henoch and Bruce Whittaker. Participating in the hearing and representing the Applicant was Mike Davis. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES/LUSD File No. L00P0005
- Exhibit No. 2 DDES/LUSD staff report prepared for the May 8, 2001 public hearing
- Exhibit No. 3 Revised environmental checklist, signed by the Applicant on 12/8/00
- Exhibit No. 4 SEPA Mitigated Determination of Non-significance, issued 3/27/01
- Exhibit No. 5 Affidavit of Posting, submitted by the Applicant, indicating that a sign was posted at the intersection of S. 280th St/34th Ave. S., giving notice of the filing of the subject application.
- Exhibit No. 6 Revised plat map (3 sheets), received 12/13/00
- Exhibit No. 7 Land use map (Kroll Maps 366E & 367W)
- Exhibit No. 8 Assessor maps for the SW ¼ and the NW ¼ of Sec. 34, Twp. 22, Range 4
- Exhibit No. 9 Preliminary Geotechnical Report, dated 12/10/99 and prepared by Terra Associates, Inc.
- Exhibit No. 10 Level 1 Drainage Analysis..., revised and dated December, 2000, prepared by AHBL, Inc.
- Exhibit No. 11 Traffic Analysis dated 8/31/00 and prepared by Transportation Consulting Northwest
- Exhibit No. 12 Transfer of Development Credit Sending Site Certificate and attached pages (12 sheets).
- Exhibit No. 13 Density Credit Transfer Agreement (6 sheets)
- Exhibit No. 14 Revised Condition No. 8b